

From: [Miller, Robert](#)
To: [Sankula, Sujatha](#)
Subject: RE: E. I. du Pont de Nemours and Company Imprelis Order
Date: Tuesday, May 15, 2018 9:47:00 AM

Thanks, Sujatha.

-

From: Sankula, Sujatha
Sent: Tuesday, May 15, 2018 9:18 AM
To: Miller, Robert <Miller.Robert@epa.gov>
Cc: Koper, Christopher <Koper.Christopher@epa.gov>; Orrick, Greg <Orrick.Greg@epa.gov>
Subject: RE: E. I. du Pont de Nemours and Company Imprelis Order

Hello Bob

Imprellis is in ERB6 now. Please email Brian Anderson. Thank you.

From: Miller, Robert
Sent: Tuesday, May 15, 2018 9:13 AM
To: Schulze, Chad <Schulze.Chad@epa.gov>
Cc: Koper, Christopher <Koper.Christopher@epa.gov>; Orrick, Greg <Orrick.Greg@epa.gov>; Sankula, Sujatha <Sankula.Sujatha@epa.gov>
Subject: RE: E. I. du Pont de Nemours and Company Imprelis Order

Hi Chad,

I'm still the 6(a)(2) Coordinator.

If we received data from DuPont regarding this Imprelis Herbicide incident it is contained attachment I027540. As you can see, there isn't much data provided with aggregate incidents. I would have preferred DuPont had given this incident a severity code of P-A (plant-major) which would requiring them to provide us more data. I am not familiar with the Agency's August 18, 2011 letter, but the letter may allow DuPont to report this incident in aggregate format due to the sheer volume of incidents involving Imprelis.

It is surprising to me that Bayer has a product with the active ingredient aminocyclopyrachlor.

Bob

Robert A. Miller
6(a)(2) Coordinator
Information Technology and Resource Management Division
EPA Office of Pesticide Programs

Mail Code 7502P
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Washington D.C.

(703) 347-8012
miller.robert@epa.gov

From: Schulze, Chad
Sent: Monday, May 14, 2018 7:14 PM
To: Miller, Robert <Miller.Robert@epa.gov>
Subject: FW: E. I. du Pont de Nemours and Company Imprelis Order

Hi Bob ... Can you let me know who the 6(a)(2) contact is ... I want to make sure DuPont reported the incident in the attached case detail.

Thank you!

Sincerely,
Chad

Chad Schulze
Pesticide Enforcement Team Lead
Pesticide and Toxics Unit
Office of Compliance and Enforcement
EPA Region 10
1200 6th Ave, Suite 155
Seattle, WA 98101
206-553-0505 (ph)
206-771-3058 (cell)
206-553-4743 (fax)
schulze.chad@epa.gov
<http://yosemite.epa.gov/r10/ECOCOMM.NSF/Pesticides/Pesticides+Homepage>

EPA DIVE UNIT:
<https://www.epa.gov/scientific-diving> or <https://www.epa.gov/diving>

Like us on Facebook! <http://www.facebook.com/EPADivers>

From: Dale Mitchell [<mailto:dmitchell@oda.state.or.us>]
Sent: Friday, May 11, 2018 11:07 AM
To: Schulze, Chad <Schulze.Chad@epa.gov>
Cc: Liu, Linda <Liu.Linda@epa.gov>; Andrea Cantu-Schomus <acantuschomus@oda.state.or.us>;
Andrea Sonnen <asonnen@oda.state.or.us>; Michael Odenthal <modenthal@oda.state.or.us>;
Roseann Kachadoorian <rkachadoorian@oda.state.or.us>; Charlton, Tom <Charlton.Tom@epa.gov>;
PARC Information <parc@oda.state.or.us>

Subject: Re: E. I. du Pont de Nemours and Company Imprelis Order

Chad,

FYI - Additional Information on the incident and concern. Had the Registrant reported the incident to EPA as per FIFRA 6 (a) (2) requirements?

Dale Mitchell
Pesticides Program Manager
Oregon Department of Agriculture
(503) 986-4646

On May 11, 2018, at 9:09 AM, Schulze, Chad <Schulze.Chad@epa.gov> wrote:

Good morning,

I wanted to give you a heads up that you might be receiving a call from [REDACTED]. As you can see from her email below to Tom Charlton, HQ's OCE Attorney, she is alleging that up to one thousand mature Ponderosa Pine trees were damaged or killed in the Deschutes National Forest by an application of Perspective (EPA Reg. No. 432-1569) by Jefferson County DOT. One of the active ingredients in Perspective is aminocyclopyrachlor, the same a.i. in DuPont's Imprelis.

I provided Tom both of your phone numbers and he in turn provided them to [REDACTED]. He contacted her yesterday and discovered that the applications began sometime in 2013. Have you already heard about this incident?

Thank you and please let me know if you have any questions.

Sincerely,
Chad

Chad Schulze
Pesticide Enforcement Team Lead
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206-553-0505 (ph)
206-771-3058 (cell)

Personal privacy information

206-553-4743 (fax)

schulze.chad@epa.gov

<http://yosemite.epa.gov/r10/ECOCOMM.NSF/Pesticides/Pesticides+Homepage>

EPA DIVE UNIT:

<https://www.epa.gov/scientific-diving> or <https://www.epa.gov/diving>

Like us on Facebook! <http://www.facebook.com/EPADivers>

From: Charlton, Tom

Sent: Thursday, May 10, 2018 6:04 AM

To: Matthews, Julie <Matthews.Juliane@epa.gov>; Schulze, Chad <Schulze.Chad@epa.gov>; Dunbar, Bill <dunbar.bill@epa.gov>

Cc: Teter, Royan <Teter.Royan@epa.gov>; Hellyer, Yvette <Hellyer.Yvette@epa.gov>

Subject: FW: E. I. du Pont de Nemours and Company Imprelis Order

I had worked on the older DuPont Imprelis case but this appears to involve another product using the same active ingredient. I will contact this person but I suspect that I should refer her to someone from your shop. Any contact recommendations?

- Tom

Tom Charlton, Attorney
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
Tel: (202) 564-6960
Fax: (202) 564-0035

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From: [REDACTED]

Sent: Tuesday, May 08, 2018 12:24 PM

To: Charlton, Tom <Charlton.Tom@epa.gov>

Subject: E. I. du Pont de Nemours and Company Imprelis Order

Mr. Charlton: I am a resident of Central Oregon where up to one thousand mature Ponderosa Pine trees have been damaged or killed by aminocyclopyrachlor applied by Jefferson County under the direction of the Sister Ranger District of the Deschutes National Forest and the Oregon Department of Transportation. The herbicide was renamed "Perspective" and apparently owned now by Bayer. How can this be? These trees are an icon of life in this high desert area and line the major entrance to the area for a 15 mile stretch. Now the local paper says they must be removed because they will die. Can you help or refer me to someone who can help to get accurate information

Personal privacy information

to the community. Thank you.



Sent from my U.S. Cellular® Smartphone



Oregon

John Kitzhaber, Governor

Department of Agriculture

635 Capitol Street NE
Salem, OR 97301-2532

Case Number: 150404

Case Name: Hwy 20 / USFS, ODOT

Case Closed



Overview

Investigator

Brent Nicolas

Case Reviewer

Sunny Jones

Date Started 04/28/2015



Date Completed 08/28/2015



ROL Provided? ☐ Yes ☒ No

List Test(s) Requested Aminocyclopyrachlor,
Sulfometuron-methyl

Number of Samples Taken 8

Number of Samples Analyzed 8

Number of Applicators 2

Complaint? ☒ Yes ☐ No

Sample Type ☐ Air ☒ Veg
☐ Animal ☐ Other
☒ Soil
☐ Swab
☐ Water

Complaint Form Provided? ☒ Yes ☐ No

PARC ☒ Yes ☐ No

Cease & Desist ☐ Yes ☒ No

Type of Investigation NUF

Verified Compliance? ☐ Yes ☐ No

Date Reviewed 08/31/2015



Related Cases

Date Case Completed 09/01/2015



Sixty Days 06/27/2015

One Hundred Twenty Days 08/26/2015

Tracking Devices Liquid spray application

Nature

Parties Involved

<u>Parties Involved</u>	<u>Last / Business Name</u> <u>Address</u> <u>City</u> <u>Email</u>	<u>First</u> <u>State</u>	<u>Zip</u>	<u>License #</u> <u>Phone</u> <u>Phone 2</u>	<u>License Type</u> <u>Expiration Date</u> <u>County</u>	<u>Category</u>
Government agency	UNITED STATES FOREST 3160 NE 3RD STREET PRINEVILLE	OR	97754		Crook POC: Sarah Callaghan, Invasive Plant Program	
Applicator	SHOCKNEY [REDACTED] [REDACTED]	TODD [REDACTED]	[REDACTED]	AG-L1031218PPA [REDACTED]	PPA 12/31/2015 Crook	ROW
Government agency	JEFFERSON COUNTY 715 SE GRIZZLY ROAD MADRAS	OR	97741		Jefferson POC: Todd Shockney	
Government agency	DESCHUTES COUNTY 61150 SOUTHEAST 27TH STREET BEND	OR	97702		Deschutes POC: Jon Valley, Manager	
Government agency	OREGON DEPARTMENT 800 Airport Rd SE SALEM	OR	97301		Marion POC: Will Lackey, Statewide Integrated Vegetation	
Applicator	PAYE [REDACTED] [REDACTED]	FLOYD [REDACTED]	[REDACTED]	AG-L0149250PPA [REDACTED]	PPA 12/31/2015 Jefferson AgH, TOH, Reg. W, ROW	
Government agency	Oregon Department of 635 Capitol Street NE Salem	OR	97301	503-986-4621	Marion POC: Mike Crumrine, ODA Central Oregon Integrated	

Personal privacy information

Application Information

Date of Application Start Time End Time Time of Day

Application Note

Category Applicator

Right of Way

Location of Application

Specific Site/Crop

Rate of Application (mixing rate, diluent, rate per area, etc)

Purpose

Method of Application

Pesticides Involved

<u>Type</u>	<u>Manufacturer</u>	<u>Trade Name</u>	<u>EPA Reg. No.</u>	<u>Active Ingredients</u>
Herbicide	DuPont	Perspective	352-846	Aminocyclopyrachlor, Chlorsulfuron
Herbicide	DuPont	Oust XP	352-601	Metsulfuron methyl
Herbicide	Monsanto	Honcho Plus	524-454	Glyphosate
Herbicide	Bayer	Esplanade 200 SC	432-1516	Indaziflam

December 2014-February 2015

A number of Ponderosa pine trees along both the north and south sides of **Highway 20** west of **Sisters** were observed to be in a state of decline. The trees had needles that were browned/dead instead of the dark green color normally seen on them. This condition varied from tree to tree. Some trees were completely browned throughout, some at the upper portions only, while others with one side browned in this manner.

This was noted in November 2014 by the district pesticide investigator **Brent Nicolas** (myself). In December I initially called and spoke with **Jon Valley, Roadside Vegetation Manager** for **Deschutes County**. The county has made numerous roadside pesticide applications to various roads and highways within Deschutes County. The affected trees were near/in the western border of the county on Highway 20.

Valley said they had made applications in the area but not necessarily where the affected trees were. He and I went out to the area in December. We drove along Highway 20 and observed those trees and he pointed out where his employees had made their applications. Those applications were to **United States Forest Service (USFS)** lands that were located on both sides of the highway.

March 2, 2015

I had not received any complaints regarding this application until this date. I received an email from **Sarah Callaghan, Invasive Plant Program Manager for the Deschutes and Ochoco National Forests and the Crooked River National Grasslands**. The email is as follows:

"Hi Brent,

I am the invasive plant program manager for the Deschutes and Ochoco National Forests. Last week, Jon Valle mentioned you had investigated some tree damage along hwy 20 outside of Sisters. Myself, Mike Crumrine and the district botanist also went out to look at the trees. Can you please give me more information about this? We really want to make sure we are in the loop and communicating with you.

Thanks,
Sarah"

March 18, 2015

I met and spoke with Callaghan. I presented my state credentials to her. She said that several of her staff and members of the public had commented to her office about the trees along Highway 20. She had also been in contact with **Mike Crumrine, ODA Central Oregon Integrated Weed Management Coordinator**.

She and I discussed the various applications of pesticides along the highway roadsides.

Narrative

We discussed the possibility of a biotic source such as diseases or insects as being a possible source. She mentioned that she had been in contact with **Will Lackey, Oregon Department of Transportation (ODOT) Statewide Integrated Vegetation Management Coordinator**.

I spoke with Lackey several times in person and over the phone. He said that ODOT had hired Jefferson County Road Department to make roadside applications in that area and would know what products had been used along the roadside.

April 28, 2015

I drove out to the area of Highway 20 where the affected trees were located. The trees appeared as they had in the winter. While the trees that were affected were located along the highway there was no consistency in the which trees were in that condition. Some of the trees on the edge of the the right of way were affected while others this distance appeared to be healthy. In other places the affected trees were further back from the right of way while trees near them that were closer to the road.

Sample Plan

After surveying the area I selected several places in which to take samples. I took vegetative and soils samples from an area over a hundred feet away from the highway where the trees appeared to be healthy, the same sample media were taken from healthy and affected trees adjacent to the right of way. Soil samples were taken within the right of way by the sampled healthy and affected trees. The purpose of the samples was to see if the herbicide used was present in the soil around the trees or in the vegetation. Documentary photos were taken as well.

In my conversation with Lackey he had said that Jefferson County had applied DuPont Perspective, a herbicide containing the active ingredient aminocyclopyrachlor. This ingredient is known to be harmful to Ponderosa pines. Additionally a product called DuPont Oust XP was used in the tank mix. Its ingredient, sulfometuron-methyl, was also analyzed for.

The samples were sent to the ODA Laboratory for analysis.

May 5, 2015

I called and spoke with **Todd Schockney**, Jefferson County Weed Control, He confirmed that the county had applied herbicides along the Highway 20 road shoulders west of Black Butte Ranch. He was aware of the trees and had been in contact with ODOT about it.

I requested the application records for the work done along Highway 20. They were faxed to me that day.

Record Review

Narrative

There were two applications of record for those areas. One from April 9, 2014 and one from March 6, 2015. Each application consisted of the same pesticide products. Those products were DuPont Perspective, Monsanto Honcho Plus, DuPont Oust XP, and Bayer Esplanade 200 SC. Both applications used the same method (Norstar spray system with boomless nozzles). With the exception of an increase in the amount of Honcho (2015), use rates were the same over both applications. The 2014 application was made over 20 acres and in 2015 it was 17 acres.

The applicator in 2014 was **Floyd Paye**. The applicator in 2015 was Todd Shockney.

Label Review

A review of the product labels for the pesticides used found the site, rates, and method of application to be appropriate for the directions.

The Perspective label stated in part:

- Do not apply this product in areas where the roots of desirable trees and/or shrubs may extend unless injury or loss can be tolerated. Root zone areas of desirable trees or vegetation are affected by local conditions and can extend well beyond the tree canopy.
- Certain species may, in particular, be sensitive to low levels of DuPont™ PERSPECTIVE® including but not limited to, conifers (such as Douglas fir, Norway spruce, ponderosa pine and white pine), deciduous trees (such as aspen, Chinese tallow, cottonwood, honey locust, magnolia, poplar species, redbud, silver maple, and willow species), and ornamental shrubs (such as arborvitae, burning bush, crape myrtle, forsythia, hydrangea, ice plant, magnolia, purple plum and yew).
- Injury or loss of desirable trees or vegetation may result if PERSPECTIVE® is applied on or near desirable trees or vegetation, on areas where their roots extend, or in locations where the treated soil may be washed or moved into contact with their roots. Consider site-specific characteristics and conditions that could contribute to unintended root zone exposure to desirable trees or vegetation. Root zone areas of desirable trees or vegetation are affected by local conditions and can extend beyond the tree canopy. If further information is needed regarding root zone area, consult appropriate state extension service, professional consultant or other qualified authority.

License Review

Both applications required a public pesticide applicators license. Both applicators were licensed as public pesticide applicators at the times of the applications.

Sample Results

I received the results of the samples on August 12, 2015. The results are as follows:

Sample Results

Sample	Analysis Requested	Results	MRL
NUF150404-1	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm

Narrative			
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-2	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-3	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-4	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-5	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-6	Aminocyclopyrachlor	<0.043 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-7	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm
NUF150404-8	Aminocyclopyrachlor	<0.010 ppm	0.010 ppm
	Sulfometuron-methyl	<0.010 ppm	0.010 ppm

ppm = parts per million MRL - Minimum Residue Level

positive sample results in bold

All but one of the samples were negative for the presence of either aminocyclopyrachlor or sulfometuron-methyl. A sample of pine needles taken from a tree that was mostly browned out did have a aminocyclopyrachlor residue of 0.043 ppm, which was above the 0.010 ppm MRL.

Investigator Recommendations

The Department of Agriculture has investigated a concern raised by the USFS regarding trees along Highway 20 west of the town of Sisters. USFS was concerned about the decline of a number of Ponderosa pines along the highway. From its review of the available information, the Department has not substantiated a violation of the Oregon Pesticide Control Act has occurred.

A review of the pesticide applications made to the roadside right-of-way found that the applications appeared to have been made in accordance with pesticide use rules. State pesticide licensing requirements were also met in the applications.

Narrative

Sampling of Ponderosa pine needles from an affected tree found the presence of aminocyclopyrachlor, one of the ingredients found in the herbicide Perspective. The ingredient is known to adversely affect Ponderosa pines. While it appears that the pesticide applications were made appropriately the ingredient has found its way into the tree.

As a result, USFS has requested a multi-agency meeting to discuss future pesticide use on its lands, especially where they abut roads.

Conclusion

The Department of Agriculture has investigated a concern raised by the USFS regarding trees along Highway 20 west of the town of Sisters. USFS was concerned about the decline of a number of Ponderosa pines along the highway. From its review of the available information, the Department has not substantiated a violation of the Oregon Pesticide Control Act has occurred.

A review of the pesticide applications made to the roadside right-of-way found that the applications appeared to have been made in accordance with pesticide use rules. State pesticide licensing requirements were also met in the applications.

Sampling of Ponderosa pine needles from an affected tree found the presence of aminocyclopyrachlor, one of the ingredients found in the herbicide Perspective. The ingredient is known to adversely affect Ponderosa pines. While it appears that the pesticide applications were made appropriately the ingredient has found its way into the tree.

As a result, USFS has requested a multi-agency meeting to discuss future pesticide use on its lands, especially where they abut roads.

Attachments

Attachment Name

Type

Emails	Correspondence
Maps	Maps
Pesticide Application Records	Records
Pesticide Product Labels	Label
Photos and photo log	Photos
Sample Results	Correspondence

Enforcement Summary

<u>Name</u>	<u>License Type</u>	<u>Prohibition Violated</u>	<u>Number of Actions</u>	<u>Action</u>	<u>CP Paid?</u>	<u>Notice Issued</u>	<u>Notice Served</u>	<u>Orig CP Amount \$</u>	<u>Hearing Regsted</u>	<u>Informal Held</u>	<u>Final Order Date</u>	<u>Actual CP Amount \$</u>
Oregon Department of Transportation	NONE	NONE	1	NONE								
TOTAL Orig CP Amount \$								TOTAL Actual CP Amount \$				